

PESTICIDE ESA NEWS

Washington State Department of Agriculture ➔ Endangered Species Program Newsletter

EPA completes effects determinations on 7 chemicals

EPA has completed its assessment of 7 more pesticide active ingredients in compliance with the July 2002 summary judgment in the Washington Toxics Coalition, et al., v. EPA lawsuit. EPA determined that only one of the 7 chemicals, dimethoate, may affect salmonids.

Active Ingredient	Trade Name	Chemical Classification	Pesticide Class	Buffers Required in Some ESUs
1, 3-dichloropropene	Telone	HOC	fumigant	No
coumaphos	Co-Ral	organophosphate	insecticide	No
diflubenzuron	Dimilin	benzoylphenyl urea	insecticide	No
dimethoate	several	organophosphate	insecticide	Yes
metribuzin	Axion	triazine	herbicide	No
oxyfluorfen	Goal	diphenyl ether	herbicide	No
tebuthiuron	Spike	substituted urea	herbicide	No

Applications of pesticides containing dimethoate will continue to require 20-yard (60 feet) buffers for ground applications and 100-yard buffers (300 feet) for aerial applications around salmon-supporting waters. The other six pesticides reviewed will no longer be subject to court-imposed buffers in Washington State. A list of the pesticides subject to buffer zones in Washington State may be viewed on the WSDA web site at agr.wa.gov/PestFert/EnvResources/docs/EffectsbyESU.pdf.

EPA has reviewed 47 of the 54 pesticides subject to the 2002 ruling in a lawsuit brought by the Washington Toxics Coalition and other environmental and fishing groups. WSDA provided state-specific use data to EPA for these determinations and is currently gathering information on the local application practices for the remaining 7 pesticides. EPA is on schedule to complete the court-ordered reviews by Dec. 1, 2004.

The effects determination analysis and supporting documentation for each active ingredient may be viewed on the Internet at epa.gov/oppfeed1/endanger/effects/. ➔

Federal agencies issue counterpart regulations

On Aug. 5, NOAA Fisheries and U.S. Fish & Wildlife Service (the "Services"), in conjunction with USDA and EPA, announced the publication of joint counterpart regulations for pesticide consultations under Section 7 of the Endangered Species Act. The counterpart regulations change the federal requirements for Section 7 pesticide consultations by providing a more streamlined mechanism to ensure protection of threatened and endangered species.

The counterpart regulations become effective in 30 days. However, EPA may not operate under the new rules until an alternative consultation agreement with the Services is implemented and EPA staff has received training as required by the new regulations. Under the new rules, EPA will conduct its own scientific evaluation of a pesticide and is required to consult with the Services only if the evaluation determines

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PROGRAM CONTACTS

Bridget Moran
Program Manager/
Environmental Toxicologist
(360) 902-1936
bmoran@agr.wa.gov

Deborah Bahs
Crop & Pesticide Use
Specialist
(360) 902-2067
dbahs@agr.wa.gov

Perry Beale
Crop Mapping Specialist
(360) 902-2065
pbeale@agr.wa.gov

Jim Cowles, Ph.D.
Environmental Toxicologist
(360) 902-2066
jcowles@agr.wa.gov

Ed Thompson
IT Application Specialist
(360) 902-2064
ethompson@agr.wa.gov

Ed Von Grey
Pesticide Use Management
Specialist
(509) 782-2520
EVonGrey@agr.wa.gov

QUESTIONS?

For more information about the Endangered Species Program, visit our Web site at agr.wa.gov/PestFert/EnvResources/EndangSpecies.htm

We welcome your input. Please send your comments and questions to the WSDA Endangered Species Program at esp@agr.wa.gov

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that the pesticide is likely to have an adverse effect on endangered species.

The Services remain responsible for enforcing the endangered species law and will continue to periodically review EPA's effects determinations under the new rules. In addition, EPA can ask the Services to participate in the development of the effects determinations. If a consultation is requested, the Services would have final say on whether a species might be harmed by a pesticide.

For more information about the counterpart regulations, see the **Feb. 6 issue** of *Pesticide/ESA News* or read the final rule at epa.gov/EPA-SPECIES/2004/August/Day-05/e17654.htm. ➔

EPA charged with failure to comply with ruling

In three separate legal actions, Earthjustice, the environmental defense firm representing Washington Toxics Coalition and other environmental groups, alleges EPA has failed to comply with certain requirements of the Jan. 2004 ruling in *Washington Toxics Coalition, et al., v. EPA*.

Earthjustice asserts EPA has not adequately implemented the point of sale requirements of the final order and requested the U.S. District Court to order EPA to take additional action to convey the posting and notification requirements to retailers in urban areas.

In a second request to the court, Earthjustice asked for intervention in the Washington State Department of Ecology's authorization under the Clean Water Act to apply 2,4-D directly into salmon-supporting waters to control Eurasian milfoil. Earthjustice petitioned the court to clarify that the final order's noxious weed exclusion does not allow application of any of the 54 pesticides named in the lawsuit directly into salmon supporting waters but rather limits application to spot treatments, wicking, dipping, painting, and injections.

In a related legal move, Earthjustice put EPA on notice that they plan to sue in 60 days unless the agency improves its review process for effects determinations. The notice to sue is based on an April 2004 draft letter from NOAA Fisheries to EPA stating it did not agree with the EPA effects determinations and EPA failed to use the best science available when it reviewed 38 pesticides for effects on salmon.

For background information on the court-mandated point-of-sale notifications and noxious weed exemption, see **Washington Toxics Coalition, et al., v. EPA** on the WSDA Endangered Species Program web page. Information about the intent to sue will be posted to this web page as it becomes available. ➔

Fish Facts: A fish story

In Celtic mythology, salmon are associated with knowledge and prophecy - to eat a salmon was to gain immediate knowledge. This connection is based on the legend of the warrior-poet, Fionn Mac Cumhaill (Finn Mac Cool).

As a young man, Fionn served the druid, Finegas. The seer lived beside the river Boyne angling in vain for the fabled Salmon of Knowledge. This magical fish would impart the knowledge of the world on the first person to taste it. Fionn had served for five years when Finegas at last caught the salmon.

Finegas asked his apprentice to help cook the fish. While Fionn was turning the fish on the pan, he burnt his thumb and immediately put it in his mouth to ease the pain. When Fionn sucked his burned thumb, he ingested all the salmon's knowledge. From then on, he had only to put his thumb in his mouth to know whatever he wished and his wisdom became known throughout Ireland. ➔



Fionn and Finegas cook the Salmon of Knowledge.